UNITED STATES GOVERNMENT BEFORE THE NATIONAL LABOR RELATIONS BOARD

ARAMARK UNIFORM SERVICES, INC.,

and

Case 32-CA-24857

WESTERN STATES REGIONAL JOINT BOARD, LOCAL 3

ORDER

The petition to revoke subpoena duces tecum B-630440 is denied. The subpoena seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any other legal basis for revoking the subpoena. See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Specifically, the petition seeks the revocation of Paragraph 2 of the subpoena, based on the assertion that the requested documents are protected from production by the attorney work product doctrine.¹ However, the Petitioner has failed to meet its burden of establishing that the requested information is not subject to disclosure because it constitutes protected work product. See *Dole v. Milonas*, 889 F. 2d 885, 888-89 (9th Cir. 1989) (party asserting a privilege bears the burden of proving it is applicable). And, "a blanket claim of the existence of [a] privilege is insufficient to meet

¹ Paragraph 2 requests the production of "[d]ocuments, including but not limited to security guard logs, witness statements, notes, letters, reports and/or memoranda" The petition specifically excluded the request for security guard logs.

the burden." *Jones v. Boeing Co.*, 163 F.R.D. 15, 17 (D. Kan. 1985), citing *In re Grand Jury Subpoena*, 831 F.2d 225, 228 (11th Cir. 1987).²

Dated, Washington D.C., May 18, 2010.

WILMA B. LIEBMAN,

CHAIRMAN

PETER C. SCHAUMBER,

MEMBER

CRAIG BECKER,

MEMBER

² The subpoena instructions, item N, detail how the Respondent may seek to establish a privilege.